

SEP 09 2008

Docket No.: 0465-1148P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Young Jae JEON

Application No.: 10/777,655

Confirmation No.: 5625

Filed: February 13, 2004

Art Unit: 2151

For: HOME NETWORK SYSTEM AND METHOD
OF PROVIDING OPERATION HISTORY FOR
SAME

Examiner: G. J. Madamba

REPLY BRIEF UNDER 37 C.F.R. § 41.41

MS Appcal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

As required under § 41.41, this brief is filed within two months of the July 9, 2008 date of mailing of the Examiner's Answer, and is in furtherance of Appellant's positions in the Appeal Brief.

1. Initially, Appellant presents the following information to clarify the statement of the grounds of rejection in the Examiner's Answer:

Appellant respectfully notes that, while the Examiner's Answer states that the Appellant's statement of the grounds of rejection to be reviewed on appeal is correct, the Examiner's Answer proceeds to incorrectly summarize and present the grounds of rejection. The reason for this is

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because the Examiner agreed to enter Appellant's Amendment under 37 CFR §1.116, which was filed on September 5, 2007, which added subject matter from claims 7, 14 and 27 to independent claims 1, 9 and 15, respectively. The added subject matter had been previously rejected in claims 7, 14 and 27 based on the Klosterman reference. The Amendment filed on September 5, 2007 also canceled claims 7, 14 and 27.

However, the statement of each of the grounds of rejection in the Examiner's Answer simply repeats the statements of each of the grounds of rejection in the final Office Action, which does not reflect the fact that that Amendment was entered, and that all of the rejections of all of the currently pending claims are additionally based on the Klosterman reference because all of the independent the claims (1, 9 and 15) were amended in the after-final Amendment filed on September 5, 2007 to include subject matter that was rejected based on Klosterman when it was only in dependent claims 7, 14 and 27.

Appellant's statement of the grounds of rejection clearly states that all of the rejections are based on the Klosterman reference, and the Examiner agrees with this because the Examiner's Answer clearly states that the Appellant's statement of the grounds of rejection is correct.

Accordingly, to the extent that the actual statements in the Examiner's Answer, of the outstanding rejections omit mention of Klosterman, they should be considered by the Honorable Board members to include a statement that the rejections are also based on the Klosterman reference.

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This information is being provided to simplify the issues to be decided by the panel of Honorable Board members assigned to decide this Appeal.

2. The Examiner's Answer completely fails to address a critical argument in Appellant's Appeal Brief.

The specific argument presented by Appellant that is simply not addressed by the Examiner's Answer is that none of the applied references discloses a memory that cumulatively stores the operation status of at least one slave device included in each slave device response signal even when the message block function of the TV receiver is currently activated, as recited in all claims.

Because this argument is not even addressed, it is not rebutted, and for this reason alone, the Office has not made out a *prima facie* case of unpatentability of the claimed invention, and should be reversed.

3. Appellant replies to the "Response to Argument" section of the Examiner's Answer, as follows:

On page 19 of the Appeal Brief, Appellant respectfully submitted that not one of the three references applied in the final rejection of claims 1, 3-5, 9, 12, 15, 18-23, 25-26, 28-29 and 31 discloses (1) a television receiver that includes the capability to activate a message block function which prevents messages sent from at least one slave device from being displayed, or (2) a memory that cumulatively stores the operation status of at least one slave device included in each slave device response signal even when the message block function of the TV receiver is

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currently activated, as recited in all claims.

Appellant also stated, on page 21 of the Appeal brief, that Smyers, the base reference used in the final rejection, fails to disclose three positively recited features of the claimed invention, i.e., (1) "the recited feature of home network system wherein the master device is a 'television receiver,'" and (2) "wherein the master device includes a capability to activate a message BLOCK function which prevents messages sent from the at least on (sic: one) slave device from being displayed" and (3) "wherein the memory *cumulatively* stores the operation status data included in each response signal, regardless of whether a message BLOCK function of the master device is currently activated or not."

In response to these arguments, which are repeated in the paragraph bridging pages 25 and 26 of the Examiner's Answer, are addressed on pages 26 through line 3 of page 28 of the Examiner's Answer, the Examiner's Answer admits that Smyers does not disclose a TV set as a master controller (page 26, second full paragraph, last sentence) and indicates that this feature is disclosed by Sitnik (paragraph bridging pages 26 and 27), but never once explains where Smyers, Sitnik or Klosterman discloses (1) a television receiver that includes the capability to activate a message block function which prevents messages sent from at least one slave device from being displayed, and (2) a memory that cumulatively stores the operation status of at least one slave device included in each slave device response signal even when the message block function of the TV receiver is currently activated, as recited in all claims.

With respect to the claimed feature of "wherein the master device includes a capability to

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activate a message BLOCK function which prevents messages sent from the at least one slave device from being displayed," the Examiner's Answer speculates that this feature is either "well known" or "sufficiently disclosed by Klosterman in a related endeavor", and concludes that this feature is satisfied by "a teaching or disclosure of a Television Receiver that includes with it a Blocking Function capability."

Appellant strenuously disagrees with this conclusion that the claimed "message BLOCK function which prevents messages sent from the at least one slave device from being displayed" is met by a teaching or disclosure of "a Blocking Function."

This position in the Examiner's Answer ignores the explicit language of the claims and reads out of the claimed invention the language "message" and "which prevents messages sent from the at least one slave device from being displayed."

This is fundamentally improper because all words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970) and *In re Miller*, 169 USPQ 597 (CCPA 1971). See also (Unpublished) *Ex parte Knapton*, 67 USPQ2d 1059 (Bd. Pat. App. & Int. 2002).

The Examiner's Answer continues by explaining that Klosterman discloses use of either an audio blocking bit (ABB) or a video blocking bit (VBB) in activating an electronic program guide (EPG). According to the Examiner's Answer, the EPG checks the VBB of a channel table entry of the channel currently tuned and, in one embodiment, if the VBB channel is set "on", then the EPG display is adjusted to completely cover the screen, and the show being viewed or displayed is completely BLOCKed out (references is made to paragraph [0061] and Figs. 2a-b, 3

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and 4a-b).

Appellant respectfully disagrees and submits that Klosterman does not disclose the claimed feature of "wherein the master device includes a capability to activate a message BLOCK function which prevents messages sent from the at least one slave device from being displayed" for the following reasons:

Klosterman has nothing whatsoever to do with master/slave status query operations on a home network. Instead, Klosterman deals with providing a single TV user with ads and commercials that the user may prefer or someone may want the user to see rather than an ad or commercial broadcast with the program. Klosterman replaces or overlays the tuned program signals with alternative video and/or audio and/or graphics and/or text. In one embodiment, an electronic programming guide (EPG) is used to alter selection and display of advertisements on the TV and, optionally, to block the audio and video of the currently displayed program when the EPG is activated. In other words, the block function disclosed by Klosterman is limited to only being activated when the electronic program guide is activated and only for the limited purpose of blocking the tuned program's audio and video currently being viewed to permit a particular advertisement to be displayed on the TV. This has nothing to do with the claimed invention, which recites a message BLOCK function which prevents messages sent from a slave device from being displayed and cumulatively stores operation status data included in each response signal even when the message BLOCK signal of the TV receiver is currently activated, or with Sitnik's peer-to-peer TV program distribution over a home network or with Smyers' network node status system. Moreover, because Klosterman's program display blocking feature does not

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explicitly disclose preventing messages sent from a slave device from being display, the Office must provide objective factual evidence that this occurs inherently, i.e., not just possibly and not just probably, but necessarily, as required by existing case law including, for example, *In re Oelrich*, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) and *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Unfortunately, no such evidence has been presented by the Office.

The Office Action also provides no reasonable nexus between these significantly different modes of operation of Smyers and Klosterman that would provide a good reason why one of ordinary skill in the art would turn to Klosterman to modify Smyers. Moreover the statement that one would be motivated to block Smyers' operational history displays, which a user explicitly wants to display in Smyers, is counterproductive and, would effectively frustrate a user of Smyers' system by blocking the very operational history reports that user has asked for. This is an example of where the proposed modification of Smyers by Klosterman would result in an inoperative device in the sense that Smyers would be precluded from operating as intended.

Additionally, if Klosterman's BLOCK function is adapted to be used in the Smyers-Sitnik reference combination, it might block a TV program, but is not disclosed as blocking a message from a slave device. Clearly, a message from a slave device is not a broadcast TV program. In other words, even if one of ordinary skill in the art turned to Klosterman to modify Smyers' home network TV to include a block function to temporarily block a displayed tuned TV program signals to display a particular commercial, this would not result in, or render obvious, the claimed invention.

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Additionally, as noted above, the Examiner's Answer never addresses where any of Smyers, Sitnik or Klosterman discloses the positively recited feature of "wherein the memory *cumulatively* stores the operation status data included in each response signal, regardless of whether a message BLOCK function of the master device is currently activated or not."

This positively recited aspect of the claimed invention is simply ignored by the Examiner's Answer, as it was ignored in the final Office Action. Moreover, because none of the three applied references discloses the positively recited feature of "wherein the memory *cumulatively* stores the operation status data included in each response signal, regardless of whether a message BLOCK function of the master device is currently activated or not," no matter how these three references are combined, they cannot result in, suggest, or otherwise render obvious, the claimed invention. Additionally, where the Examiner's Answer does not even address this claimed feature, and the final office Action fails to provide objective factual evidence of support for this feature in any of these three applied references, no *prima facie* case of obviousness of the claimed invention has been made.

4. Appellant is in agreement with respect to the contents of the Examiner's Interview Summary mailed along with the Examiner's Answer, and this statement constitutes Appellant's Statement of Interview.

5. Appellant also respectfully submits that (1) dependent claims 3, 11, 12, 17 and 22 *separately and additionally* patentably define, respectively, over claims 1, 9 and 15, and over the

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applied art, because none of the applied art discloses or suggests that the displayed operation history includes a list of operations or events performed during a predetermined period of time; (2) dependent claims 4, 13 and 23 patentably define, respectively, over claims 1, 9 and 15, and over the applied art, because none of the applied art discloses or suggests that the history inquire request received from the user includes a user selection of a period of time, and the displayed operation history data includes a list of operations or events performed by each of the at least one slave device during the selected period of time; (3) dependent claims 5, 19 and 20 additionally patentably define, respectively, over claims 1 and 15, and over the applied art, because none of the applied art discloses or suggests that the operation status data included in each response signal includes information indicating an initiation of a completion of one or more operations; (4) and dependent claims 24 and 25 additionally patentably define over claim 15, and over the applied art, because none of the applied art discloses or suggests that the history inquiry request is made by turning on a TV receiver or pushing a function key located within the TV receiver, for reasons presented in the Appcal Brief.

Accordingly, the rejection of claims 1, 3-5, 9, 12, 15, 18-23, 25-26, 28-29 and 31 is improper and should be reversed.

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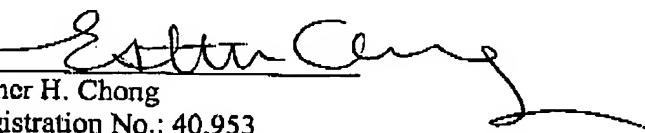
CONCLUSION

Appellant respectfully submits that claims 1-5, 8-13, 15-26 and 28-31 are patentable over the applied art and that all of the rejections and objections of record should be reversed.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Dated: September 9, 2008

Respectfully submitted,

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